

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL WIERSUM,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:24-cv-378

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Vermaat’s Report and Recommendation in this matter (ECF No. 18) and Plaintiff’s Objections to it (ECF No. 19). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . as a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Magistrate Judge recommends affirming the Commissioner’s decision because the ALJ’s conclusions are supported by substantial evidence. The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff’s Objections to it. After its review, the Court finds the Magistrate Judge’s Report and Recommendation to be factually sound and legally supported.

Plaintiff makes one objection to the Magistrate Judge’s Report and Recommendation. The Administrative Law Judge (“ALJ”), argues Plaintiff, failed to articulate why his Residual Functional Capacity (“RFC”) assessment did not account for leg elevation. Plaintiff says the Magistrate Judge did not properly address this feature of the ALJ’s decision. The Court disagrees. As the Magistrate Judge correctly noted, the ALJ carefully navigated experts who thought Plaintiff could do even more and settled on an RFC supported by substantial evidence. (ECF No. 18, PageID.1144). There is no error in that. *See Blakley v. Comm’r of Soc. Sec.*, 581 F.3d 399, 406 (6th Cir. 2009) (“The substantial-evidence standard is met if a ‘reasonable mind might accept the relevant evidence as adequate to support a conclusion.’”) (quoting *Warner v. Comm’r of Soc. Sec.*, 375 F.3d 387, 390 (6th Cir. 2004)). Plaintiff’s objection, therefore, does not alter the ALJ’s well-founded conclusions, and the Magistrate Judge was right to recommend affirmance.

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge, (ECF No. 18), is **APPROVED** and **ADOPTED** as the opinion of this Court.
2. Defendant Commissioner of Social Security’s decision, (ECF No. 5-2), is **AFFIRMED**.
3. The matter is **DISMISSED**.

Dated: April 16, 2025

/s/ Robert J. Jonker
 ROBERT J. JONKER
 UNITED STATES DISTRICT JUDGE